

BEFORE THE INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE, NO. 05-131
RE: JUDGE BRANDT C. DOWNEY III

MOTION FOR MORE DEFINITE STATEMENT

COMES NOW, Brandt C. Downey III, (hereinafter referred to as “Respondent”), files this, his Motion for More Definite Statement and moves that the Special Counsel for the JQC be directed to amend or supplement portions of its Notice of Formal Charges and says as follows:

1. With regards to Count II, paragraph 8 alleges a violation of Canon 1 and Canon 2 relating to the note and the sleeping juror.

2. In order to respond to the allegations stated in Count II, it is requested that the JQC specify how this incident “failed to uphold the integrity and independence of the judiciary”. It should be noted that this is not what Canon 1 says. The second sentence of Canon 1 states, “A Judge should participate in establishing, maintaining and enforcing high standards of conduct and shall personally serve those standards so that the integrity and independence of the judiciary may be preserved”.

3. In order for Respondent to adequately respond to this allegation, Special Counsel must be ordered to amend this portion of Count II to state with great specificity how the alleged action violates Canon 1.

4. Count II also alleges a violation of Canon 2, specifically Canon 2A, “...by failing to comply with the law...”

5. In order to adequately respond to this allegation, Special Counsel must be ordered to amend this portion of Count II to state with great specificity what law or laws the Respondent

failed to comply with and further state how Respondent's actions "...did not promote public confidence in the integrity and impartiality of the judiciary".

6. Paragraph 12 of Count III also alleges a violation of Canon 2A. In order for Respondent to adequately respond to and defend against this allegation, Special Counsel must be ordered to amend Count III to state with great specificity exactly what laws Respondent did not respect and comply with. The commentary on Canon 2A states that "actual improprieties under this standard include violations of the law, court rules or other specific provisions of the code. The test for the appearance of impropriety is whether the conduct would create in reasonable minds, with knowledge of all relevant circumstances that a reasonable inquiry would disclose, a perception that a judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired."

7. In order to adequately respond to and defend against this allegation, Special Counsel must be ordered to amend this Count to allege exactly how these Canons were violated, what laws or rules were not followed and exactly how the Respondent failed to carry out his duties with integrity, impartiality and competence.

8. Also, with regard to Count III, attached hereto are redacted copies of two (2) affidavits, one from each of the female attorneys referred to in this Count. These affidavits refute most of the allegations in Count III and make it quite clear that neither of these two attorneys feel that these charges are well founded.

9. In order to adequately respond to and defend against this Count III, Special Counsel must amend Count III to more definitely state how Respondent's actions, if true, fail to uphold the integrity and independence of the judiciary (Canon 1), and how these actions, if true, are improper (Canon 2) and how these actions, if true, show any kind of bias or prejudice based

on gender (Canon 2B(5)). The attached redacted affidavits show a total lack of prejudice or gender bias.

10. As stated, and unless amended, Respondent is unable to respond to Count II and Count III and they should be amended accordingly.

WHEREFORE Respondent moves that Special Counsel be directed to amend a portion of Count II and Count III.

BRANDT C. DOWNEY III
Circuit Judge, Sixth Judicial Circuit
Pinellas County Courthouse
315 Court Street, Room 421
Clearwater, FL 33756

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven copies were filed by regular U.S. Mail to Thomas D. Hall, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, FL 32399-1927 with a copy sent via e-mail to e-file@flcourts.org; and a copy furnished by regular U.S. Mail to E. Lanny Russell, Esquire, 225 Water Street, Suite 1800, Jacksonville, FL 32202 and to Thomas C. MacDonald, Jr., Esquire, General Counsel, JQC, 1904 Holly Lane, Tampa, FL 33629, this ____ day of _____ 2006.

BRANDT C. DOWNEY III